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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDREW A. WIEDERHORN,
WILLIAM J. AMON,
REBECCA D. HERSHINGER, and
FAT BRANDS INC.,

Defendants.

No. CR 24-00295-RGK

GOVERNMENT'S RESPONSE TO THE
COURT'S ORDER TO SHOW CAUSE

Plaintiff United States of America, by and through its counsel of record, the Acting United States Attorney for the Central District of California, hereby responds to the Court's order to show cause why the Court should grant leave to dismiss the indictment. (Dkt. 134.)

On May 9, 2024, the Grand Jury returned the indictment in this matter. (Dkt. 1.) During 2025, the Department of Justice issued policy guidance on enforcement priorities. See, e.g., Memorandum from the Attorney General, General Policy Regarding Charging, Plea Negotiations, and Sentencing (Feb. 5, 2025); Memorandum from the Head

1 of the Criminal Division, Focus, Fairness, and Efficiency in the
2 Fight Against White-Collar Crime (May 12, 2025). Because the conduct
3 alleged in the indictment does not fall within the scope of these
4 criminal prosecution priorities, the government moves to dismiss the
5 indictment.

6 This is a proper basis for dismissal. “[T]he decision whether
7 or not to prosecute . . . generally rests entirely in [the
8 Government]’s discretion.” Wayte v. United States, 470 U.S. 598, 607
9 (1985). An unopposed motion to dismiss an indictment should be
10 granted unless the Court finds the decision is “clearly contrary to
11 manifest public interest.” United States v. Garcia-Valenzuela, 232
12 F.3d 1003, 1008 (9th Cir. 2000) (denial of unopposed motion to
13 dismiss only appropriate where “the motion was clearly contrary to
14 manifest public interest”). The Executive branch’s decision to focus
15 its limited prosecution resources on other types of harm is not
16 clearly contrary to the public interest. Where, as here, a dismissal
17 is based on government enforcement priorities, the Court should defer
18 to the government’s evaluation of those priorities and grant a motion
19 to dismiss.¹ Wayte, 470 U.S. at 607 (“Such factors as . . . the
20 Government’s enforcement priorities and the case’s relationship to
21 the Government’s overall enforcement plan are not readily susceptible
22 to the kind of analysis the courts are competent to undertake.”);
23 United States v. Gonzalez, 58 F.3d 459, 462 (9th Cir. 1995) (“The
24 decision to dismiss an indictment implicates concerns that the
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27 ¹ Criminal prosecutions are not the only means to address
28 potential violations of the law. The course of conduct alleged in
the indictment is also the subject of a pending SEC action. (See
Securities and Exchange Commission v. FAT Brands, Inc., et al.,
No. 2:24-cv-03913-MCS-AGR (C.D. Cal.).)

1 Executive is uniquely suited to evaluate, and a district court should
2 be reluctant to deny its request.").

3 Based on the above and the underlying "[s]eparation-of-powers
4 concerns [that] generally require a district court to defer to the
5 government's decision to seek a dismissal of a criminal charge,"
6 Gonzalez, 58 F.3d at 461, the Court should grant the government's
7 unopposed motion, dismissing this case without prejudice.

8 Dated: August 4, 2025

Respectfully submitted,

9 BILAL A. ESSAYLI
10 United States Attorney

11 /s/
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13 Assistant United States Attorney

14 Attorneys for Plaintiff
UNITED STATES OF AMERICA
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